

April 2, 2007

The Honorable Jennifer Granholm
Governor of Michigan

Ms. Carol Morey Viventi, Secretary of the Senate
Mr. Richard J. Brown, Clerk of the House
State Capitol Building
Lansing, Michigan 48909

In accordance with Public Act 304 of 1982, the attached 2005 Annual Report for the Michigan Utility Consumer Representation Fund (UCRF) is transmitted to the Legislature.

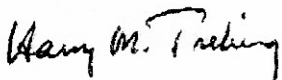
The state's six largest investor-owned utilities who use cost recovery proceedings to recover purchased gas and power supply costs from ratepayers were required, under this Act, to remit a total ratepayer funded assessment of \$1,013,299 in 2005 to provide for fair and adequate representation of Michigan residential energy ratepayers in gas and power supply cost recovery proceedings, reconciliation cases and other related proceedings before the Michigan Public Service Commission. 47.5% of the revenue is allocated to fund intervenor grants, 47.5% of the revenue is allocated to the Department of Attorney General, and the remaining 5% is allocated for administrative costs.

Grants awarded in calendar year 2005 totaled \$1,022,500. Total funding available in the calendar year 2005 was \$522,500 (FY05 authorized) and \$500,000 (requested FY06 authorization pending approval of the budget). The Utility Consumer Participation Board granted its full authorization (actual and pending) to support intervention efforts of non-profit, utility consumer groups. While all of the interests that applied for funding received an award, several intervention proposals for FY 06 were scaled back or fees renegotiated due to limited funds. The cases selected for UCRF funding represent approximately 95% The cases selected for UCRF funding represent approximately 95% of the residential customers of utilities participating in cost-recovery proceedings or almost 3 million natural gas customers and 3.5 million electric customers in the state of Michigan. In 2005, UCRF funded intervention efforts resulted in an estimated combined savings of over \$100 million for Michigan energy utility ratepayers. Many of the reductions and disallowances achieved by UCRF funded intervenors continue to benefit ratepayers over the long-term. In addition, policy reforms brought about by the active participation of UCRF funded consumer groups assure greater equity and efficiency in future energy utility planning and ratemaking.

The Attorney General's Office expended \$368,541 of UCRF funds in calendar year 2005 for intervention on behalf of the utility ratepayers of Michigan. The Attorney General's Office will submit its P.A. 304 Annual Report under separate cover.

Sincerely,

UTILITY CONSUMER PARTICIPATION BOARD



Dr. Harry M. Trebing, Chair

cc: Keith W. Cooley, DLEG Director
UCPB Board Members Alexander Isaac, Sister Monica Kostielney, Ronald F. Rose (Vice Chair)

**UTILITY CONSUMER REPRESENTATION FUND
ANNUAL REPORT**

CALENDAR YEAR 2005

UTILITY CONSUMER PARTICIPATION BOARD

Dr. Harry M. Trebing, Chair
Alexander Isaac
Sister Monica Kostielney
Ronald F. Rose, Vice Chair

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Questions regarding this report should be addressed to:

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1. INTRODUCTION

Public Act 304 of 1982, as amended (Act 304) provides for the establishment and implementation of gas and power supply cost recovery clauses in the rates and rate schedules of public utilities. The Utility Consumer Participation Board (UCPB) and the Utility Consumer Representation Fund (UCRF) were further created by the Act to achieve equitable representation of interests of energy utility customers in energy cost recovery proceedings. The purpose of the UCPB is to make grants from the Act 304 Utility Consumer Representation Fund (UCRF) to qualified nonprofit organizations and local units of government to represent the interests of residential utility customers in energy cost recovery and reconciliation proceedings before the Michigan Public Service Commission, other state and federal agencies, and the courts.

This annual report to the Legislature, which is required under section 6m(22) of the Act, covers the activities of the Utility Consumer Participation Board for the 2005 calendar year.

The Utility Consumer Participation Board awarded \$1,022,500¹ in UCRF grants in 2005 to consortia of several non-profit, consumer groups. Grant recipients in 2005 included the Residential Ratepayer Consortium (RRC), Michigan Consumer Action Agency Association (MCAAA), Michigan Environmental Council (MEC), Public Interest Research Group in Michigan (PIRGIM), and (Pay As You Save) PAYS America. Combined, the grantees represent state-wide, nonprofit groups with over 400 member agencies and tens of thousands of individual members focused on issues related to energy, consumer protection, environmental, public health, and community action. Grant recipients reported a substantial return on monies invested in intervention. Though it is difficult to determine and validate exact monetary benefits in any single year, the estimated direct savings in 2005 exceeded \$100 million for Michigan energy utility ratepayers. Other benefits include accrued savings from past intervention and future savings from lower annual rates, decommissioning and securitization charges. Policy reforms achieved in 2005 related to symmetry of contingency factors, enhanced data reporting and disclosure, and improved gas purchasing strategy and hedging guidelines will result in greater equity and efficiency and reduced risk for Michigan's energy utility ratepayers. Finally, efforts to incorporate energy efficiency in overall supply planning offer new approaches to mitigate escalating energy prices for residential customers. Through these efforts, the UCPB, through the administration of the UCRF, continues to advance the purpose of Act 304 and improve outcomes for residential energy customers in Act 304 and related proceedings.

In addition to UCRF grant awards, The Attorney General's Office expended \$368,541 of UCRF funds in fiscal year 2005 for intervention on behalf of the utility ratepayers of Michigan. Results of the Attorney

¹ Grant UCRF 05-01 was awarded on September 29, 2004 and therefore does not appear in the Board Action, Section 2.1. The benefits were reported in the 2004 Annual Report and therefore are not included in this report. The grant was funded by FY05 dollars and therefore is reflected in financial reporting for purposes of clarity.

General's intervention are provided in a separate annual report submitted by their office to the Legislature.

2. UCPB MAJOR RESPONSIBILITIES

MCL 460.6l provides for the creation of a Utility Consumer Participation Board, defines its membership, and prescribes its duties.

MCL 460.6m creates the Utility Consumer Representation Fund, establishes provisions for its generation, distribution and use, limits the beginning dates of cost recovery proceedings, and places reporting requirements on both fund recipients and the Board.

The duties and responsibilities of the Act under these two sections were discharged as described in the following sections 2.1 and 2.2.

2.1 UCPB Board Action 2005

Listed below are actions taken by the Utility Consumer Participation Board in the administration of the Utility Consumer Representation Fund from January 1, 2005 to December 31, 2005.

May 4, 2005

Discussed grant extensions and the fact that they cannot be extended if the request comes after the expiration date of the contract.

Approved \$143,622 grant (UCRF 05-02) to Residential Ratepayer Consortium (RRC)

Approved \$116,300 grant (UCRF 05-03) to Michigan Community Action Agency Association (MCAAA)

Approved \$118,108 grant (UCRF 05-04) to Michigan Environment Council (MEC) and Public Interest Research Group in Michigan (PIRGIM).

July 6, 2005

Discussed requesting supplemental for FY 06 grant cycle from past years unspent funds.

Discussed having grantees submit additional information with regard to status of grants. Discussed the Attorney General's Memorandum of Advice with regard to scope of authority and board procedure for: approval of grant extensions (Chair v. full board, public meeting requirements, etc.);

approval of a grant for work already performed;

retroactive amendment or extension of an expired grant agreement.

Deferred consideration of FY06 grant proposals until the next board meeting.

Elected Officers.

August 31, 2005

Discussed 2004 Annual Report

Approved \$83,933 grant (UCRF 06-01) to Pays America (PAYS)
Approved \$82,749 grant (UCRF 06-02) to Michigan Environment Council (MEC)
Approved \$100,719 grant (UCRF 06-03) to Michigan Community Action Agency Association (MCAAA)
Approved \$180,141 grant (UCRF 06-04) to Residential Ratepayer Consortium (RRC)
Approved \$52,458 grant (UCRF 06-05) to Public Interest Research Group in Michigan (PIRGIM)

October 17, 2005

Affirmed the written decision of DLEG, denying PIRGIM's appeal in its letter dated August 30, 2005
Discussed preparation of a series of questions that will be submitted to Mr. Crandall, by Chair Trebing with regard to the status of the study for which additional funds were granted at the August 31, 2005 Meeting.

Confirmed that upon receipt of a satisfactory response from Mr. Crandall the funds would then be released for further work on this study.

2.2 UCRF Grants Awarded 2005 (5/04/05 and 08/31/05) See table on the following page.

| Grant ID | DESC | Term | Amt Requested | Amt Awarded (Amt Expended to date) | Admin Expense |
|--------------------------|--|---|---------------|---|---------------------|
| UCRF 05-01 RRC | Intervention in PSCR Plan Cases FY 05-06 for DECO, CECO. | 12/8/2004-12/31/2005, extended 6/6/2006 | \$144,470 | \$144,470 (\$109,646) | \$1,430 |
| UCRF 05-02 RRC/MLHS | Intervention in GCR Plan Cases FY 05-06 for CECO, MichCon, SEMCO, Aquila/MGU; Intervention in GCR Reconciliation Cases 2004-05 for same companies. | 6/7/2005-6/6/2006, extended 9/30/2006 | \$143,622 | \$143,622 (\$112,116) | \$1,422 |
| UCRF 05-03 MCAAA | Intervention in GCR Plan Cases for MichCon (U-13902, U-14401) and CECO (U-14403); Intervention in GCR Reconciliation Case for MichCon (U-13902R); Appeals/court cases for U-13060, U-13060R, U-13902 and related appeal COA-263262, U-13902R, U-14401, U-14403 | 6/7/2005-6/6/2006 | \$116,300 | \$116,300 (\$119,231) ² (UCRF \$116,300) (Intervener \$2,931) | \$1163 |
| UCRF 05-04 MEC | Intervention in PSCR Plans for CECO (U-14275, U-13917), DECO (U-14274, U-13808), Indiana Michigan Power (U-13919), WECO (None recorded); CECO Decommissioning (U-14150); Intervention in PSCR Reconciliation Cases CECO (U-13917R), DECO (U-13808R), Indiana Michigan Power (U-13919R); File Generic Complaint (U-13771); Related court cases and appeals to above). | 6/7/2005-6/6/2006, extended 9/30/2006 | \$118,108 | \$118,108 (\$118,104) | \$1,181 |
| Total FY05 Authorization | | | \$522,500 | \$522,500 (\$344,054) | \$5,210 |
| UCRF 06-01 PAYS America | Development of Pay-As-You-Save (PAYS) Conservation Tariff for SEMCO service areas cooperatively or through GCR Plan Case. | 11/1/2005-9/30/2006 | \$157,725 | \$83,933 (\$77,501) | \$0, None requested |
| UCRF 06-02 MEC/PIRGIM | Intervention in 2006 PSCR Plan Cases for CECO (U-14701), DECO (U-14702); Intervention in 2005 PSCR Reconciliation Cases for CECO (U-14274R), DECO (U-14275R); and related court cases/appeals (U-14467). | 12/7/2005-12/6/2006 | \$101,000 | \$82,749 (\$81,582) | \$819 |
| UCRF 06-03 MCAAA | Intervention in 2006 GCR Plan Cases for CECO (U-14716), MichCon (U-14717); Intervention in 2005 GCR Reconciliation cases for CECO (U- | 12/7/2005-12/6/2006 | \$121,200 | \$100,719 (\$95,113) | \$997 |

| | | | | | |
|---|--|---|-----------|--------------------------|--------|
| | 14403R), MichCon (U-14401R; and related court cases/appeals (U-14467). | | | | |
| UCRF 06-04 RRC/MLHS | Intervention in 2006-07 GCR Plan Cases for CECO, MichCon, SEMCO, Aquila/MGU; Intervention in 2005-06 GCR Reconciliation Cases for above companies. | 12/7/2005-12/6/2006, extended 7/30/2007 | \$206,040 | \$180,141 (\$143,197) | \$1794 |
| UCRF 06-05 PIRGIM Supplemental to UCRF 04-05 | Comp. Assessment of Michigan's Electric Restructuring Implementation & impacts on Michigan's PSCR Customers | 3/22/06-9/30/06 | \$52,458 | \$52,458 (\$50,863) | \$1658 |
| Total FY06 Authorization (pending budget approval) | | | \$500,000 | \$500,000 (\$305,059) | \$5268 |

2.3 Resource Availability

The total amount of grants requested for calendar year totaled \$1,016,453. The UCRF grant authorizations available were \$878,030.

2.4 Resource Efficiency and Non-Duplication Due Diligence

In the grant evaluation process, the Board scrutinized proposals for potential non-productive duplication of effort. Proposed work plans and areas of potential overlap were identified. Where it was determined that the scope of the case and potential impact on residential customers merited coordinated intervention, the Board granted funds to allow multiple parties to participate in the case/proceeding. In all cases where grantees were funded for intervention on the same case, the perspectives, issues and expertise were coordinated to avoid non-productive duplication of effort and to assert the most effective intervention possible with the limited resources available. Further coordination with the Attorney General on complex testimony, hiring of experts, and litigation strategy strengthened the representation of residential energy customers in a cost and resource efficient manner. In order to monitor efforts, the Board required grantees to file periodic financial and performance reports.

3. UCRF RESULTS

3.1 Cost/Benefit Analysis and Discussion

In creating cost recovery mechanisms that allowed utilities to recover energy supply costs from ratepayers outside of a contested rate case, the Michigan Legislature assured that Michigan's residential energy customers would be effectively represented through the creation of the UCRF. UCRF funding is collected from assessments on utilities that use the cost recovery mechanism, Therefore, the revenue for the fund is generated from ratepayers and expended for their benefit. The 2005 grant recipients' proposals sought to accomplish three primary goals:

- 1) Improve overall energy supply planning in order to reduce costs to Michigan energy ratepayers.
- 2) Scrutinize costs actually incurred by utilities are reasonable and prudent in order to assure Michigan's residential ratepayers are not bearing undue costs or risks.

- 3) Offer innovative proposals to improve or balance supply planning including but not limited to demand management, conservation and energy efficiency.

There are many factors that impact assessment of benefits from the UCRF including: 1) certain cases and proceedings span more than one grant year, 2) proceedings, through the appeal process, may remain pending for several years, 3) impact of a decision in one year often continues to benefit ratepayers in future years, 4) outcomes may result from multiple parties interventions and may be reported (in whole or part) by each party, 4) lack of a standardized reporting approach and validation method. The UCPB is working on securing administrative support to specifically work on development of improved reporting models and other UCPB objectives and tasks.

For purposes of this report, costs are generally understood to be the portion of the utility assessment collected from ratepayers. Benefits generally reported are the disallowance of recovery for specific energy costs proposed by utilities and important case developments or decisions that may positively impact ratepayers or ratepayer costs in the long-run. These direct costs reported were disallowed by the Michigan Public Service Commission as a result of Act 304 intervention efforts or were otherwise saved through negotiated settlements by the grant recipient acting both alone and in conjunction with other parties.

3.2 Summary of UCRF Grant Results

The Residential Ratepayer Consortium (RRC) participated in ten (10) major gas cost recovery plan and reconciliation cases in 2005. The RRC reports direct savings for ratepayers as a result of their efforts separately and in combination with other interveners of \$42,549,613 in refunds, cost reductions and disallowances. Specific case results are reported in section 3.3 of this report.

Michigan Community Action Agency Association (MCAAA) participated in ten (10) major gas cost recovery plan and reconciliation cases and related appeals. MCAAA reports direct savings for ratepayers as a result of their efforts separately and in combination with other interveners of \$50-100 million in refunds and reductions in rates approved versus those requested by utilities. Specific case results are reported in section 3.3 of this report.

Michigan Environmental Council (MEC)/Public Interest Group in Michigan (PIRGIM) participated in twenty (20) major electric utility proceedings including: SNF Complaint, power supply cost recovery plan and reconciliation cases, general rate case, nuclear plant decommissioning case, and related appeals. MEC/PIRGIM reports direct savings for ratepayers as a result of their efforts separately and in combination with other interveners of \$85.7 million in rate surcharge reductions and elimination of a proposed “control premium” in electric rates. Specific case results are reported in section 3.3 of this report.

Public Interest Group in Michigan (PIRGIM) conducted a comprehensive assessment of Michigan's electric industry restructuring restructuring and the impact on Michigan PSCR customers. Initial review and data collection were accomplished. Analysis was deferred to 2006 pursuant to major filings of Detroit Edison and Consumers Energy. Specific case results are reported in section 3.3 of this report.

Pay As You Save (PAYS America) introduced an innovative proposal for improving supply planning and reducing costs to residential electricity ratepayers through an energy efficiency tariff-based program. The specific program parameters for SEMCO territories are in development. Specific case results are reported in section 3.3 of this report.

3.3 Detail Report 2005 Grant Results

Grantee: Residential Ratepayer Consortium³

| <u>Order Date</u> | <u>Case</u> | <u>Results</u> |
|--------------------------|--|---|
| 02/24/2005 | MPSC Case No. U-13570-R Consumers Energy Company Settlement Agreement | \$24,751,439 GCR Refund (\$5,262,552 GCR over recovery \$16,860,981 pipeline refund, \$2,627,906 Associated interest) |
| 02/24/05 | MSPC Case No. U-13622-R SEMCO Energy Gas Co. Settlement Agreement | \$2,664,174 GCR Refund: Agreement by SEMCO to implement improved data content requested by the RRC in future GCR Reconciliation Filings. |
| 04/28/05 | MSPC Case Nos. U-13060 & U-13060-R Michigan Consolidated Gas Company Commission Order in Contested Case | \$13,900,000 Cost Reduction |
| 05/17/05 | MPSC Case No. U-13902 Michigan Consolidated Gas Company MSPC Case No. U-13990 Aquila Networks - MGU | Policy Reform – Reversal of MPSC policy that contingent GCR factors need not reflect natural gas decreases. |
| 06/07/05 | MPSC Case No. U-13550-R Aquila Networks – MGU Commission Order on Contested Case | \$1,234,000 Cost Disallowance |
| 09/20/05 | MPSC Case No. U-14400 Aquila Networks – MGU Settlement Agreement | Policy Reforms – (1) injected symmetry into operation of quarterly contingency adjustment mechanism; |

| | | |
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| | | And (2) persuaded Aquila to drop Proposals for “Probability Weighted Risk Factor” and “tracker” for lost and Unaccounted for gas. |
| 09/20/05 | MPSC Case No. U-14402 SEMCO Energy Gas Company Settlement Agreement | Policy Reform – injected symmetry into operation of quarterly contingency adjustment mechanism. |
| 11/30/05 | MPSC Case No. U-14403 Consumer Energy Company Settlement Agreement | Policy Reforms – (1) injected symmetry into operation of quarterly contingency adjustment mechanism; (2) negotiation Of gas purchasing strategy and Guidelines; and (3) negotiation of natural Gas hedging strategy and guidelines. |
| Grantee : | PAYSAMERICA⁴ | |
| <u>Order Date</u> | <u>Case</u> | <u>Result</u> |
| Pending | MPSC Case No. U-14718 Intervention in SEMCO GCR Case | Identified opportunities for SEMCO Energy Gas Company to improve supply planning by reducing high wholesale costs to its customers from excessive leased gas storage using energy efficiency program. Developed proposed SEMCO PAYS Tariff language, templates for program enrollment forms, and vendor/participant contracts. |
| Grantee: | Michigan Environmental Council and Public Interest Research Group in Michigan⁵ | |
| <u>Order Date</u> | <u>Case</u> | <u>Result</u> |
| Pending | MPSC Case No. U-13771; Complaint regarding spent nuclear fuel (SNF cost and rate issues). | Complaint filed March 26, 2003; case involved hundreds of millions in SNF cost and rate impacts involving five (5) nuclear utilities serving Michigan ratepayers; Proposal for decision by Administrative Law Judge issued March 20, 2005, ruled in favor of MEC/PIRGIM, et. al, on significant legal issues concerning state jurisdiction, standing, absence of federal preemption, availability of remedies, among others. Commission order of 9/20/05 dismissed complaint without prejudice to refiling to include additional and |

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| | | updated facts. Case process continued in 2006, and refiled complaint expected. |
| 11/23/04 and 6/30/05 | MPSC Case No. U-13808; Detroit Edison Combined PSCR Plan/General Rate Case and U-13808 R. Also pending appeals of orders in Court of Appeals, including: Detroit Edison v MPSC, Docket 252966; Attorney General v MPSC, Docket 264191; ABATE v MPSC, Docket 264156; MEC/PIRGIM v MPSC, Docket 264131. | MEC/PIRGIM actively participated in all hearings and briefing leading to the Commission's final order. MEC/PIRGIM opposed DECo's request to charge electric ratepayers for the "control premium" incurred by its parent company, DTE Energy, to acquire MichCon. DTE paid \$2,488 billion for MCN (MichCon and parent company MCN), or \$1,478 billion above MCN's book value. DECo sought approval in the case to include in its electric rates a rate adjustment to recover this control premium in the amount of \$65.7 million annually for 40 years, or an amount of more than \$2.6 billion (estimated as having a present value of \$893 million in 2004 dollars). The Commission rejected DECo's request on this issue. DECo has appealed this issue to the Court of Appeals; MEC/PIRGIM filed a Court brief defending the Commission order on this issue. MEC/PIRGIM in U-13808 also challenged DECo's inclusion in PSCR rates of \$8 million in annual PSCR costs related to a non-performing contract governing spent nuclear fuel (SNF) fees and disposal; MEC/PIRGIM sought better protection of the fees or assignment of fee costs to the utility rather than to ratepayers. The MPSC rejected MEC/PIRGIM's position. MEC/PIRGIM filed an appeal of this issue in the Court of Appeals, which is pending. |
| 2/28/05 and 8/1/05 | MPSC Case U-13917 and U- 13917 R; CEC0 2004 PSCR Plan and Reconciliation case; also appeal in MEC/PIRGIM v MPSC, Court of Appeals Docket 264860 (pending). | In these cases for CEC0 and IM Power, MEC/PIRGIM challenged CEC0's inclusion of over \$6 million, and IM Power's inclusion of approximately \$2 million in annual PSCR costs related to a non-performing contract governing spent nuclear fuel (SNF) fees and SNF disposal; MEC/PIRGIM sought better protection of the fees or assignment of fee costs to the utility rather than ratepayers. The MPSC ruled against taking any action, and MEC/PIRGIM has filed appeals in the Court of Appeals which are pending. |

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| 4/28/05 and 8/1/05 | MPSC Case U-13919 and U-13919 R; Indiana Michigan Power 2004 PSCR Plan and Reconciliation Cases; also appeal in MEC/PIRGIM v MPSC, Court of Appeals Docket 264859 (pending). Wisconsin Public Service Corporation | The Commission did not grant relief on the SNF issues. Appeal is pending. |
| 6/30/05 and 9/20/05 | MPSC Case U-14274; CEC0; 2005 PSCR Plan Case | MEC/PIRGIM participated in hearings and briefing regarding backfilling and SNF issues. |
| 9/20/05 | MPSC Case U-14275; The DECo; 2005 PSCR Plan Case. MPSC Case U-14150; CEC0 Nuclear Plant Decommissioning case. | MEC/PIRGIM participated in hearings and briefing. MEC/PIRGIM was a major participant filing testimony and objecting to a substantial rate surcharge request by CEC0. MEC/PIRGIM also opposed a proposed settlement by other parties as being inadequate. MEC/PIRGIM was a major contributor to the partial agreement leading to CEC0's decommissioning surcharge case being reduced from a request of \$25,141,740 annually for six (6) years, to the existing surcharge of \$5.5 million per year. |
| Pending | MPSC Case U-14701; CEC0; 2006 PSCR Plan case. | CEC0 2006 PSCR Plan case, filed 9/30/05; MEC/PIRGIM intervened 11/2/05. |
| Pending | MPSC Case U-14702; DECo; 2006 PSCR Plan case. | DECo 2006 PSCR Plan case filed 9/30/05; MEC/PIRGIM intervened 11/15/05. |

Grantee: Michigan Communication Action Agency Association⁶

| <u>Order Date</u> | <u>Case</u> | <u>Result</u> |
|---------------------|--|--|
| 3/12/03 and 4/28/05 | MPSC Case U-13060/U-13060 R; MichCon's 2002 PSCR Plan case, including follow-up remand proceedings, Commission Orders issued 3/12/03 and 4/28/05; also Court of Appeals cases, MichCon v MPSC and MCAAA, 264 Mich App 424 (2004); MichCon v MPSC and MCAAA, Docket 262888 (2005 appeal pending). | Most recent Commission order in joint Docket U-13060/U-13060 R requiring refund credit of \$13.9 million. Commission order is on appeal in MichCon v MPSC and MCAAA, Court of Appeals Docket 262888 (pending oral arguments), wherein MCAAA is defending the Commission order. |
| 5/17/05 | MPSC Case U-13902 and U-13902 R; MichCon 2004 GCR Plan and Reconciliation cases; MCAAA v MPSC and MichCon, Court of Appeals Docket 263262. | MCAAA presented testimony and briefing regarding gas purchasing plan issues, and in opposition to a NYMEX gas adjustment mechanism proposed by the utility; MCAAA |

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| | | sought modification to the mechanism to comply with statutory provisions and prevent overcollections; MCAAA appealed the MPSC order to the Court of Appeals to challenge the NYMEX adjustment clause and its use to avoid Act 304's prior notice and hearing requirements. |
| 10/28/05 | MPSC Case U-14401; MichCon 2005 GCR Plan Case | MCAAA intervened in October 2004; MCAAA filed testimony opposing MichCon September 2005 request for GCR rate increase; MCAAA participated in settlement reducing MichCon's rate request from \$13.13 Mcf to \$11.38 per Mcf (a difference of \$288 million annually, but applicable for a 4-month period of November 1, 2005 through March 30, 2006, for an approximate difference of \$100 million). |
| 11/30/05 | MPSC Case U-14403; CEC0 2005 GCR Plan case. MCAAA v MPSC and CEC0, Court of Appeals Docket 267194. | MCAAA intervened in October 2004; case settled in June 2005; CEC0 then sought to reopen in September 2005 to seek rate increase; MCAAA filed briefs and testimony in opposition; MPSC granted rate increase November 2005; MCAAA filed appeal in Court of Appeals to challenge the MPSC's procedure and use of NYMEX adjustment clause as the basis for rate setting. |

Grantee:

PIRGIM⁷

**Grant
Awarded**

Grant Number

Results

| | | |
|---------|---|---|
| 5/28/04 | UCRF-04-05 Comprehensive Assessment of Michigan's Electric restructuring implementation activities and the impact on Michigan PSCR Customers. | During 2005 PIRGIM's research team made limited progress in conducting a comprehensive review of electric industry restructuring activities, developments and reported impacts in six other jurisdictions. The project was halted early in 2005 as a result of significant regulatory developments involving the two largest electric utilities serving Michigan residential customers. In December, 2004, and February, 2005, Detroit Edison (U-14399) and Consumers Energy (U-14347) sought authorization to increase rates, recover certain costs, de-skew |
|---------|---|---|

and adjust rates and other relief resulting from implementation of Act 141. In anticipation of these important relevant developments, the project was temporarily suspended. UCRF received a request to authorize continuance of this research. The UCRF Board considered the request and requested and received project status reports updates and answers to technical questions it posed to the PIRGIM research team. The U-14347 and U-14399 Orders were issued by the Public Service Commission in late December, 2005 and January, 2006.

4. FINANCIAL REPORTING AND GRANT ADMINISTRATION

4.1 Calendar Year 2005 Remittances

The following information is compiled and provided by the Department of Labor and Growth. Public Act 304 of 1982 requires annual remittances to the Fund from any regulated utility company serving at least 100,000 customers. The total size of the fund is set at \$500,000 multiplied by a factor "set by the Board at a level not to exceed the percentage increase in...The consumer price index for the Detroit standard metropolitan statistical area...between January 1981 and January of the year in which the payment is required to be made."

Since enactment of Act 304, total remittances have been as follows:

| | | | |
|------|-----------|------|-------------|
| 1982 | \$630,600 | 1994 | \$760,266 |
| 1983 | \$653,400 | 1995 | \$791,900 |
| 1984 | \$582,250 | 1996 | \$813,000 |
| 1985 | \$569,600 | 1997 | \$834,050 |
| 1986 | \$592,650 | 1998 | \$851,728 |
| 1987 | \$596,050 | 1999 | \$864,600 |
| 1988 | \$615,250 | 2000 | \$899,000 |
| 1989 | \$650,450 | 2001 | \$930,650 |
| 1990 | \$683,450 | 2002 | \$946,150 |
| 1991 | \$715,300 | 2003 | \$981,150 |
| 1992 | \$728,650 | 2004 | \$988,350 |
| 1993 | \$745,838 | 2005 | \$1,013,299 |

Remittances due from the six utilities serving at least 100,000 customers are calculated from the

proportion of each "company's jurisdictional 1981 operating revenues...compared to the 1981 total operating revenues of all energy utility companies" contributing to the fund. This proportion, initially calculated in 1982 and recalculated in 1996, remains constant, and was applied to the six remitting utilities in the amounts shown in the table below.

| <u>Source of Calendar Year 2005 Remittance Revenue</u> | | <u>Distribution of Calendar year 2005 Revenue</u> | |
|--|-------------------------------|---|-----------------------------|
| <u>Utility</u> | <u>Amount Contributed</u> | <u>Recipient</u> | <u>Amount Allocated</u> |
| Consumers Energy | \$415,082 | Attorney General (47.5%) | \$ 481,317 |
| Detroit Edison Co. | 287,452 | Intervener Grants (47.5%) | 481,317 |
| MichCon Gas Co. | 254,223 | Administration (5%) | <u>50,665</u> |
| Aquila Networks-MGU | 21,953 | | |
| SEMCO | 24,731 | | |
| Indiana Michigan Power | <u>9,858</u> | | |
| TOTAL | \$1,013,299 | | \$1,013,299 |

Letters were sent to each utility on 4/08/05 and all remittances were made by 09/28/05.

In addition to the calendar year 2005 utility fees, interest was earned for the Fiscal Year ending 9/30/05. This was allocated proportionately between the Attorney General and the intervener grants. The intervener proportion totaled \$39,453.

4.2 Fiscal Year 2005 Appropriation and Accrued Funds

Total funding available for awarding intervener grants in calendar year 2005 was \$522,500 as shown below.

Intervener Grant Funding for fiscal year 2005:

| | |
|--|-----------------|
| Appropriation (Public Act 354 of 2004) | \$550,000 |
| Less 5% for Administration | <u>(27,500)</u> |
| Appropriation Available for Intervener Grants | \$ 522,500 |
| New Revenue | \$481,317 |
| Fiscal Year 2004 Unreserved Fund Balance | 916,113 |
| Fiscal Year Interest Earned from Common Cash Fund | <u>39,453</u> |
| Total Available if sufficient spending authorization | \$ 1,436,883 |

4.3 Notification of Readiness to Proceed

The Act requires that the Public Service Commission not act on "an application for an energy cost

recovery proceeding...until 30 days after it has been notified by the Board or the director of the Energy Administration...that the Board or the director is ready to process grant applications, will transfer funds payable to the Attorney General immediately upon [their] receipt...and will within 30 days approve grants and remit funds to qualified grant applicants." Additionally, the Act requires that "in order to implement the gas [or power supply] cost recovery clause....a utility annually shall file...a complete gas [or power supply] cost recovery plan...The plan shall be filed not less than 3 months before the beginning of the 12-month period covered by the plan."

The electric utilities selected January 1, 2005 to December 31, 2005 as the 12-month plan period. Most of the gas utilities selected April 1, 2005 – March 31, 2006 as their 12 month period.

4.4 Scope of Work

Money from the Fund, less administrative costs, "may be used only for participation in administrative and judicial proceedings under sections 6h, 6i, 6j, and 6k [of P.A. 304] and in federal administrative and judicial proceedings which directly affect the energy costs paid by Michigan energy utilities." The Attorney General has issued formal and informal opinions to guide the Board regarding cost matters that may be covered by Act 304 grants. The Act describes several kinds of proceedings. These are:

Gas supply and cost review

Power supply and cost review

Gas cost reconciliation

Power supply cost reconciliation

Decisions in any of these four proceedings may be appealed to the appropriate courts.

Grant proposals were solicited for intervention in 2005 gas supply and cost review hearings, 2005 power supply and cost review hearings, reconciliation of 2005 cases, and any subsequent appeals, hearings on electric industry restructuring, or other innovative proposals related to Act 304 issues or proceedings.

4.5 Application and Selection Process

Act 304 limits eligibility for funding to non-profit organizations or local units of government in Michigan, places specific additional restrictions on applicants, and suggests criteria that could be used in the selection process.

Applications were mailed to approximately nine different non-profit organizations and units of local government. Applications were received from several organizations including: Residential Ratepayer Consortium (RRC); the Michigan Community Action Agency Association (MCAAA); the Michigan Environmental Council (MEC); the Public Interest Research Group in Michigan (PIRGIM); and Pays America.

To the extent possible, full participation in supply and cost reviews and in cost reconciliation cases was desired by the Board. The grant proposals submitted by the Residential Ratepayer Consortium, Michigan

Community Action Agency Association, Michigan Environmental Council and Public Interest Research Group in Michigan encompassed a full range of intervention on a variety of issues and the PAYs proposal offered an innovative approach to reduction of demand and gas costs in utility planning.

After analyzing the proposed intervention, quality of previous work and experience of the applicants and their legal counsel, the Board determined that the Residential Ratepayer Consortium should be funded for Consumers Energy Company Gas and Detroit Edison Company. MCAAA should be funded for Michigan Consolidated Gas and Consumers Energy Gas Company and MEC/PIRGIM should be funded for Act 304 SNF cost issues in a complaint case, and in PSCR plan cases for Detroit Edison, Consumers Energy, and Indiana Michigan Power Company.

5. UPDATE ON THE LEGISLATIVE REVIEW OF ACT 304

Section 6m(23) of Act 304 requires a three-year legislative review of the costs and benefits attributable to the Act. The House Public Utilities Committee convened a series of hearings in the spring of 1986 allowing each of the interested parties an opportunity to present issues related to the first three years' experience under Act 304. As a part of this review process, the Board identified several issues of importance to residential ratepayers.

In the fall of 1986, the Michigan Public Service Commission sought to resolve some of those issues by initiating a review of the various suggestions that were directed toward the Commission by the Board, interveners, and the utilities. Recommendations resulting from this review were submitted to the Commission in the spring of 1987. The following discusses the issues initially identified by the Board and their current status.

ISSUE ONE: The Public Service Commission should refrain from dismembering Act 304 by holding separate proceedings for certain energy cost issues. The shifting of these issues to non-Act 304 cases strains resources available for intervention on behalf of residential ratepayers. Intervenors may have difficulty getting status and funding in the non-Act 304 cases. If they are able to intervene, they may be required to duplicate prior Act 304 efforts in the new proceeding.

The Board is concerned that the wording of Section 6m(17) of Act 304 unduly limits the ability to award UCRF funds for non-Act 304 cases that have a direct impact on energy costs paid by residential electric and gas customers of Michigan utilities.

STATUS: While there has been improvement in the detail provided in the Commission's Notices of Hearing to alert the public that in the non-Act 304 cases, there may be issues that affect purchased gas or electric power supply costs, the Board remains restricted in its ability to grant funds outside of Act 304 cases. New options should be considered for protecting Michigan's residential customers in light of

restructuring and escalating gas and electric rates. However, the restrictive language of this section tempers the Board's ability to solicit and award grants for innovative proposals.

ISSUE TWO: Numerous and lengthy delays in the Act 304 process were a serious problem up to 1991.

STATUS: The Commission has taken steps to reduce the delays with the goal of issuing orders within nine months of the filing. It has also initiated a staggered filing schedule for gas cost recovery cases. Since the Board cannot accept a utility's filing until 30 days after certification of readiness, early certification was needed to implement the staggered schedule. The Board supported the Commission's actions and in 1991, to allow for more staggering, the Board accelerated the entire grant award process by two months. Also in 1991, the Commission issued Proposed Guidelines for Completion of Cases (Order No. U-9832). In 1992, the Commission's new policy effectively solved the problem of delays in the Act 304 process. The Board commends the Commission for its actions.

ISSUE THREE: The Public Service Commission should adopt a more aggressive review of the utilities' five-year cost projections. Annual review of a utility's five-year forecast, as required by Act 304, is intended to provide an opportunity for future cost containment and increased efficiency.

STATUS: The Board encourages the Commission to continue to increase its scrutiny of the five-year forecasts and to create more rigorous filing requirements. Further the Board encourages the Commission to place greater emphasis on conservation and energy efficiency as part of reasonable and prudent supply planning, particularly in light of increasing energy prices and limited mitigation options for residential energy customers.

ISSUE FOUR: The Public Service Commission should disallow the recovery of costs that were not allowed prior to Act 304.

STATUS: This issue is resolved. Michigan courts have endorsed the Commission's designation of energy costs that may be recovered by electric and gas utilities under Act 304.

ISSUE FIVE: Information provided by the utilities should be standardized to reduce the time and effort required by interveners spent in obtaining information needed for presenting cases to the Public Service Commission.

STATUS: Filing of standardized information was recognized as an area of need during the Public Service Commission's review in 1987. However, the Commission has issued no formalized requirement for standardized information, and there has been no increase in voluntary compliance by the utilities. This issue was examined again during 1989, but final recommendations were not reached on this issue. The Board continues its support for standardized filings as a means of reducing intervention costs and

improving time frames for hearing cases. Further, standardized filing will improve the Board's ability to independently analyze the impact of UCRF funded intervention in Act 304 proceedings.

ISSUE SIX: There is a need for increased intervener funding. The amount of funding available for intervention has been limited to the annual appropriation less administrative and operating costs incurred. The board does not have the advantage of a large number of in-house experts during the plan and reconciliation case proceedings. Adequate funding is needed to secure technical assistance of expert witnesses to aid in the process of case investigation, analysis and cross-examination.

STATUS: Fees charged by the most prominent expert witnesses have increased at a faster rate than funds available for intervention, resulting in a net decrease in expert witness testimony on behalf of residential ratepayers. If the Attorney General is not participating in a case, and therefore not available to jointly sponsor an expert witness, the interveners are often forced to reject bids from the most qualified expert consultants due to the lack of funds. Additionally, utilities are becoming more active in sponsoring rebuttal testimony. The interveners' legal counsel continues to donate time for carry-over cases.

This need for increased resources is heightened by recent, dramatic structural changes in the electric and natural gas industries. Those changes have a profound effect on the energy costs paid by residential utility customers. Without additional funding to support interventions in the various forums in which key decisions about those costs are being made, there is a real danger that the interests of homeowners and renters will not be advocated and that they will ultimately bear an unreasonable share of those costs. The Board specifically requested an increase in annual appropriation for the 2006-07 fiscal year.

Questions regarding this report should be addressed to:

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